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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/674,337	07/26/2001	Satoshi Mori	55107	5232
7	10/03/2002			
Peter F Corless Dike Bronstein Robert & Cushman Edwards & Angell Intellectual Property Pratice Group 130 Water Street Boston, MA 02109			EXAMINER	
			KALLIS, RUSSELL	
			ART UNIT	PAPER NUMBER
			1638	
			DATE MAILED: 10/03/2002	15

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary Examiner		Application No.	Applicant(s)				
Russell Kallis 1638	Office Assists Occurred	09/674,337	, ,				
Period for Reply A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE £ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION. THE MAILING DATE OF THIS COMMUNICATION. THE MAILING DATE OF THIS COMMUNICATION. A PROPERTY OF THE COMMUNICATION. If the period for reply specified above is base than then; (30) alway, as reply the simely filed and expected on the mailing date of the source of CFR 1-136(a). In or event, however, may a reply to simely filed and expected on the mailing date of the source of CFR 1-136(a). In or event, however, may a reply to simely filed on the period for reply specified above, he mailtern statutory period village of will replicate St. 90 MONTHS from the mailing date of this communication. Any reply received by the Office later than there mailten shall be sufficient to become ABANDONEC (32 to S. C. § 1133). Any reply received by the Office later than there mailten shall be application to become ABANDONEC (32 to S. C. § 1133). Any reply received by the Office later than there mailtain shall be application to become ABANDONEC (32 to S. C. § 1133). Any reply received by the Office later than there are mailing shall of this communication, even if timely flavor, may reduce any search of the communication of the communicati	Oπice Action Summary	Examiner	Art Unit				
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2a) This action is FINAL. 2b) This action is non-final. 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213. Disposition of Claims 4) Claim(s) 1-26 is/are pending in the application. 4a) Of the above claim(s) is/are withdrawn from consideration. 5) Claim(s) is/are allowed. 6) Claim(s) is/are objected to. 3) Claim(s) is/are objected to. 3) Claim(s) is/are objected to restriction and/or election requirement. Application Papers 9) The specification is objected to by the Examiner. 10) The drawing(s) filed on is/are: a) accepted or b) objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). 11) The proposed drawing correction filed on is: a) approved b) disapproved by the Examiner. If approved, corrected drawings are required in reply to this Office action. 12) The oath or declaration is objected to by the Examiner. Priority under 35 U.S.C. §§ 119 and 120 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) All b) Some * c) None of: 1. Certified copies of the priority documents have been received in Application No. application from the International Bureau (PCT Rule 17.2(a)). * See the attached detailed Office action for a list of the certified copies not received. 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(b) (to a provisional application). a) The translation of the foreign language provisional application has been received. 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) to a provisional application. a) Notice of References Cited (PTO-892) b) Notice of References Cited (PTO-892)	 Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication. If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely. If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication. Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b). 						
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	2) Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) Notice of Informal Pa	PTO-413) Paper No(s) stent Application (PTO-152)				

Application/Control Number: 09/674,337

Art Unit: 1638

DETAILED ACTION

Election/Restrictions

Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

Group I, claim(s) 1-7, drawn to a polypeptide.

Group II, claim(s) 8-21, drawn to a gene encoding an amino acid, a vector, host cells, a transformed plant, and transformed fruit of a transformed plant.

Group III, claim(s) 22-24, drawn to antibodies.

Group IV, claim(s) 25-26, drawn to a method of extracting an enzyme.

The inventions listed as Groups I-IV do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons: the claims are not linked by a special technical feature because they do not constitute an advance over the prior art. Higuchi *et al.* cited by Applicants teach an isolated nicotiamine synthase protein which constitutes deletions or substitutions of SEQ ID NO: 1. Furthermore, the polypeptide of Group I and the gene of Group II do not require each other, nor do they require the antibody of Group III and the method of extraction of Group IV. The method of Group IV does not require the products of the other

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groups. Further the amino acid and nucleic acid sequences of the groups can be produced by alternative means such as chemical synthesis.

Because the inventions are distinct for the reasons given above and have required a separate status in the art as shown by their different classifications, recognized divergent subject matter, and because the search required for one of the groups is not required for another restriction for examination purposes as indicated is proper.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37) CFR 1.143).

If Group II is elected, Applicant is required to additionally select a single nucleotide sequence from SEQ ID NOs: 1, 3, 5, 7, 9, 11, 13, 15, 17, 21 or 23 for examination. If Group I is elected, Applicant is required to additionally select a single amino acid sequence from SEQ ID NOs: 2, 4, 6, 7, 10, 12, 14, 16, 18, 22 or 24 for examination. This requirement is not to be construed as a requirement for an election of species, since each of the nucleic acid sequences or amino acid sequences recited in alternative form is not a member of a single structurally and functionally related genus, but rather constitutes an independent and patentably distinct invention. Separate searches and considerations would be required for examination of each of the nucleic acid or amino acid sequences.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the

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application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Russell Kallis whose telephone number is (703) 305-5417. The examiner can normally be reached on Monday-Friday from 8:30-5:00 PM.

If attempts to reach Examiner by telephone are unsuccessful, the Examiner's supervisor, Amy Nelson, can be reached at (703) 306-3218. The fax phone number for this Group is (703) 308-4242 or (703) 305-3014.

Any inquiry of a general nature or relating to the status of this application, or if the examiner cannot be reached as indicated above, should be directed to the legal analyst, Sonya Williams, whose telephone number is (703) 308-0009.

Russell P. Kallis, Ph.D. September 29, 2002

DAVID T. FOX
PRIMARY EXAMINER
GROUP 186 / 6 3 f